

AMENDED IN ASSEMBLY FEBRUARY 21, 2012

AMENDED IN ASSEMBLY JULY 13, 2011

AMENDED IN SENATE APRIL 6, 2011

**SENATE BILL**

**No. 754**

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**Introduced by Senator Padilla**

February 18, 2011

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An act to amend Section ~~60810~~ 435 of the Education Code, relating to ~~pupil assessment~~ *pupils*.

LEGISLATIVE COUNSEL'S DIGEST

SB 754, as amended, Padilla. ~~Pupil assessment: California English Language Development Test. Pupils: English learners.~~

*The English Learner and Immigrant Pupil Federal Conformity Act requires a local educational agency to provide instructional services to limited-English-proficient pupils and immigrant pupils in conformity with specified provisions of federal law. Existing law defines the term "English learner" for purposes of these provisions.*

*This bill would additionally define the terms "long-term English learner" and "reclassified English proficient" and would declare the intent of the Legislature to enact legislation that would require the State Department of Education to provide information regarding long-term English learners and reclassified-English-proficient pupils.*

~~Existing law requires each school district that has one or more pupils who are English learners to assess the English language development of each of those pupils upon initial enrollment in order to determine the level of proficiency of those pupils and thereafter to assess each of those pupils annually until the pupil is redesignated as English proficient. The assessment primarily consists of the administration of the California~~

English Language Development Test (CELDT) that assesses pupils in grades 2 to 12, inclusive, in English listening, speaking, reading, and writing skills, and pupils in kindergarten and grade 1 in English listening and speaking.

~~This bill would prohibit a pupil in any of grades 3 to 12, inclusive, to the extent permitted by federal law, from being required to retake those portions of the CELDT that measure English language skills for which he or she has previously tested as advanced within the appropriate grade span, as determined by the State Department of Education in accordance with specified law. Notwithstanding the above prohibition, and to the extent permitted by federal law, the bill would also prohibit a pupil in any of grades 10 to 12, inclusive, from being required to retake those portions of the CELDT that measure English language skills for which he or she has previously tested as early advanced or advanced. These prohibitions would not become effective until the current CELDT publisher's contract expires. The bill would also state legislative findings and declarations regarding English learners and the CELDT.~~

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 435 of the Education Code is amended
- 2     to read:
- 3     435. For purposes of this chapter, the following terms have the
- 4     following meanings:
- 5     (a) "English learner" or "pupil of limited English proficiency"
- 6     means a pupil who was not born in the United States or whose
- 7     native language is a language other than English or who comes
- 8     from an environment where a language other than English is
- 9     dominant; and whose difficulties in speaking, reading, writing, or
- 10    understanding the English language may be sufficient to deny the
- 11    individual the ability to meet the state's proficient level of
- 12    achievement on state assessments, the ability to successfully
- 13    achieve in classrooms where the language of instruction is English,
- 14    or the opportunity to participate fully in society.
- 15    (b) "*Federal No Child Left Behind Act of 2001*" means *Public*
- 16    *Law 107-110 (20 U.S.C. Sec. 6801 et seq.)*.
- 17    (b)

1 (c) “Immigrant pupil” means a pupil who was born in a country  
2 other than the United States and who has attended a kindergarten  
3 class or any of grades 1 to 12, inclusive, in a school in the United  
4 States for three or fewer years.

5 (e) ~~“Federal No Child Left Behind Act of 2001” means Public~~  
6 ~~Law Number 107-110 (20 U.S.C. Sec. 6801, et seq.).~~

7 (d) *“Long-term English learner” means a pupil in any of grades*  
8 *6 to 12, inclusive, who has been an English learner for five or*  
9 *more years.*

10 (e) *“Reclassified English proficient” means an English learner*  
11 *who has been redesignated as English proficient pursuant to*  
12 *Section 313.*

13 SEC. 2. *It is the intent of the Legislature to enact legislation*  
14 *that would require the State Department of Education to provide*  
15 *information regarding long-term English learners and*  
16 *reclassified-English-proficient pupils.*

17 SECTION 1. ~~The Legislature finds and declares all of the~~  
18 ~~following:~~

19 ~~(a) There are 1.6 million English learners in California. An~~  
20 ~~English learner is an elementary or secondary school pupil who,~~  
21 ~~based on his or her standardized test scores in the four areas of~~  
22 ~~listening, speaking, reading, and writing, is deemed not proficient~~  
23 ~~in English.~~

24 ~~(b) The California English Language Development Test~~  
25 ~~(CELDT) is the test used to examine English proficiency.~~

26 ~~(c) The California High School Exit Exam (CAHSEE)~~  
27 ~~determines a pupil’s eligibility for high school graduation and~~  
28 ~~differs from the CELDT in that it allows a pupil to retake only~~  
29 ~~those portions of the exam that he or she failed. Numerous other~~  
30 ~~professional certificates, licenses, and exams only require the test~~  
31 ~~taker to retake the failed portions of the exam. Examples of these~~  
32 ~~professional certificates, licenses, and exams include the California~~  
33 ~~Certified Legal Secretaries certification, the California Medical~~  
34 ~~Assistants certification, the California Insurance Agent license,~~  
35 ~~the United States Coast Guard License Examination, the California~~  
36 ~~Cosmetology License, the National Board of Podiatric Medical~~  
37 ~~Examiners examination, the Examination for Professional Practice~~  
38 ~~of Psychology, the Psychology Supplemental Examination, the~~  
39 ~~Federation Licensing Examination, the National Board of Medical~~  
40 ~~Examiners exam, the United States Medical Licensing~~

1 ~~Examination, the Architect Registration Examination, and the~~  
2 ~~Landscape Architects Licensing Examination.~~

3 ~~(d) In California, a quarter of all elementary and secondary~~  
4 ~~pupils are classified as English learners. Fifty-nine percent of the~~  
5 ~~pupils classified as English learners in middle and high school will~~  
6 ~~fail to become English proficient in less than six years. Only 11~~  
7 ~~percent of pupils originally designated as English learners are~~  
8 ~~redesignated as fluent-English-proficient (FEP), meaning they~~  
9 ~~meet all of the criteria for English proficiency.~~

10 ~~(e) English learners are classified or reclassified using four~~  
11 ~~criteria: the CELDT, teacher evaluation, parent consent, and pupil~~  
12 ~~performance in the classroom. FEP pupils are able to participate~~  
13 ~~in more rigorous academic courses and A-G courses, which are~~  
14 ~~required for admission to the California State University and the~~  
15 ~~University of California. Reclassification as FEP is important to~~  
16 ~~English learners to obtain necessary academic and college~~  
17 ~~readiness.~~

18 ~~(f) California sustains \$46.4 billion in total economic losses,~~  
19 ~~equivalent to 2.9 percent of the Annual Gross State Product,~~  
20 ~~resulting from each cohort of 120,000 20-year-olds who never~~  
21 ~~completed high school. English learners, who comprise 15 percent~~  
22 ~~of all California high school pupils, represent 30 percent of all~~  
23 ~~high school dropouts. Thus, the share of economic loss caused by~~  
24 ~~20-year-old English learners that dropped out of high school is~~  
25 ~~approximately \$14 billion for every cohort of 36,000.~~

26 ~~(g) California will continue to sustain economic losses because~~  
27 ~~of a projected shortfall of one million college graduates by 2025.~~  
28 ~~Forty-one percent of jobs will require at least a baccalaureate~~  
29 ~~degree, while only 35 percent of working age adults are expected~~  
30 ~~to have that degree. California needs to address this degree deficit~~  
31 ~~and furthering the educational careers of English learners is an~~  
32 ~~important component of achieving this goal.~~

33 ~~SEC. 2. Section 60810 of the Education Code is amended to~~  
34 ~~read:~~

35 ~~60810. (a) (1) The Superintendent shall review existing tests~~  
36 ~~that assess the English language development of pupils whose~~  
37 ~~primary language is a language other than English. The tests shall~~  
38 ~~include, but not be limited to, an assessment of achievement of~~  
39 ~~these pupils in English reading, speaking, and written skills. The~~  
40 ~~Superintendent shall determine which tests, if any, meet the~~

1 requirements of subdivisions (b) and (c). If any existing test or  
2 series of tests meets these criteria, the Superintendent, with  
3 approval of the state board, shall report to the Legislature on its  
4 findings and recommendations.

5 (2) If no suitable test exists, the Superintendent shall explore  
6 the option of a collaborative effort with other states to develop a  
7 test or series of tests and share test development costs. If no suitable  
8 test exists, the Superintendent, with approval of the state board,  
9 may contract to develop a test or series of tests that meets the  
10 criteria of subdivisions (b) and (c) or may contract to modify an  
11 existing test or series of tests so that it will meet the requirements  
12 of subdivisions (b) and (c).

13 (3) The Superintendent and the state board shall release a request  
14 for proposals for the development of the test or series of tests  
15 required by this subdivision. The state board shall select a  
16 contractor or contractors for the development of the test or series  
17 of tests required by this subdivision, to be available for  
18 administration during the 2000-01 school year.

19 (4) The Superintendent shall apportion funds appropriated to  
20 enable school districts to meet the requirements of subdivision (d).  
21 The state board shall establish the amount of funding to be  
22 apportioned per test administered, based on a review of the cost  
23 per test.

24 (5) An adjustment to the amount of funding to be apportioned  
25 per test is not valid without the approval of the Director of Finance.  
26 A request for approval of an adjustment to the amount of funding  
27 to be apportioned per test shall be submitted in writing to the  
28 Director of Finance and the chairpersons of the fiscal committees  
29 of both houses of the Legislature with accompanying material  
30 justifying the proposed adjustment. The Director of Finance is  
31 authorized to approve only those adjustments related to activities  
32 required by statute. The Director of Finance shall approve or  
33 disapprove the amount within 30 days of receipt of the request and  
34 shall notify the chairpersons of the fiscal committees of both houses  
35 of the Legislature of the decision.

36 (b) (1) The test or series of tests developed or acquired pursuant  
37 to subdivision (a) shall have sufficient range to assess pupils in  
38 grades 2 to 12, inclusive, in English listening, speaking, reading,  
39 and writing skills. Pupils in kindergarten and grade 1 shall be  
40 assessed in English listening and speaking, and, once an assessment

1 is developed, early literacy skills. The early literacy assessment  
2 shall be administered for a period of three years beginning after  
3 the initial administration of the assessment or until July 1, 2012,  
4 whichever occurs first. Six months after the results of the last  
5 administered assessment are collected, but no later than January  
6 1, 2013, the department shall report to the Legislature on the  
7 administration of the kindergarten and grade 1 early literacy  
8 assessment results, as well as on the administrative process, in  
9 order to determine whether reauthorization of the early literacy  
10 assessment is appropriate.

11 (2) In the development and administration of the assessment  
12 for pupils in kindergarten and grade 1, the department shall  
13 minimize any additional assessment time, to the extent possible.  
14 To the extent that it is technically possible, items that are used to  
15 assess listening and speaking shall be used to measure early literacy  
16 skills. The department shall ensure that the test and procedures for  
17 its administration are age and developmentally appropriate. Age  
18 and developmentally appropriate procedures for administration  
19 may include, but are not limited to, one-on-one administration, a  
20 small group setting, and orally responding or circling a response  
21 to a question.

22 (e) The test or series of tests shall meet all of the following  
23 requirements:

24 (1) Provide sufficient information about pupils at each grade  
25 level to determine levels of proficiency ranging from no English  
26 proficiency to fluent English proficiency with at least two  
27 intermediate levels.

28 (2) Have psychometric properties of reliability and validity  
29 deemed adequate by technical experts.

30 (3) Be capable of administration to pupils with any primary  
31 language other than English.

32 (4) Be capable of administration by classroom teachers.

33 (5) Yield scores that allow comparison of the growth of a pupil  
34 over time, can be tied to readiness for various instructional options,  
35 and can be aggregated for use in the evaluation of program  
36 effectiveness.

37 (6) Not discriminate on the basis of race, ethnicity, or gender.

38 (7) Be aligned with the standards for English language  
39 development adopted by the state board pursuant to Section 60811.

40 (8) Be age and developmentally appropriate for pupils.

1 ~~(d) The test shall be used for the following purposes:~~

2 ~~(1) To identify pupils who are limited English proficient.~~

3 ~~(2) To determine the level of English language proficiency of~~  
4 ~~pupils who are limited English proficient.~~

5 ~~(3) To assess the progress of limited-English-proficient pupils~~  
6 ~~in acquiring the skills of listening, reading, speaking, and writing~~  
7 ~~in English.~~

8 ~~(e) (1) To the extent permitted by federal law, a pupil in any~~  
9 ~~of grades 3 to 12, inclusive, shall not be required to retake those~~  
10 ~~portions of the test that measure English language skills for which~~  
11 ~~he or she has previously tested as advanced within each appropriate~~  
12 ~~grade span, as determined by the department in accordance with~~  
13 ~~paragraph (8) of subdivision (c).~~

14 ~~(2) Notwithstanding paragraph (1), and to the extent permitted~~  
15 ~~by federal law, a pupil in any of grades 10 to 12, inclusive, shall~~  
16 ~~not be required to retake those portions of the test that measure~~  
17 ~~English language skills for which he or she has previously tested~~  
18 ~~as early advanced or advanced.~~

19 ~~(3) This subdivision shall not become effective until the current~~  
20 ~~test publisher's contract expires.~~